

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK**

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**CENTURY INDEMNITY COMPANY, AS  
SUCCESSOR TO CCI INSURANCE  
COMPANY, AS SUCCESSOR TO  
INSURANCE COMPANY OF NORTH  
AMERICA and THE CONTINENTAL  
INSURANCE COMPANY**

Plaintiffs,

versus

**FREEPORT-MCMORAN COPPER &  
GOLD INC., AS THE CLAIMED  
SUCCESSOR TO PHELPS DODGE  
CORPORATION, AS THE CLAIMED  
SUCCESSOR TO CYPRUS AMAX  
MINERALS COMPANY, AS THE  
CLAIMED SUCCESSOR TO AMAX,  
INC. AND AMAX METALS RECOVERY,  
INC., AS SUCCESSOR TO AMERICAN  
METAL CLIMAX, INC.**

Defendant.

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CIVIL ACTION NO. 08 CV 02012

**AFFIDAVIT OF DAVID LEHMAN**

I, David Lehman being of lawful age and having been duly sworn, state the following:

1. I make this affidavit based on personal knowledge pursuant to Rule 56 of the Federal Rules of Civil Procedure.
2. I am the Assistant Secretary of CNA Financial Corporation ("CNAF").
3. CNAF is a corporation organized under the laws of the State of Delaware, and it maintains its principal place of business in Chicago, Illinois. CNAF is a publicly-traded holding company created for, among other things, the purpose of holding the common stock of operating subsidiaries for the benefit of CNAF's shareholders.

4. The Continental Insurance Company, a plaintiff in this action, is a wholly-owned subsidiary of Continental Casualty Company, which is itself a wholly-owned subsidiary of The Continental Corporation. The Continental Corporation is a wholly-owned subsidiary of CNAF.

5. Throughout the period from before January 1, 1975 to after April 1, 1986, The Continental Insurance Company maintained its corporate headquarters in New York, New York.

6. The Continental Insurance Company was incorporated under the laws of New York in January 1853, and The Continental Insurance Company remained a New York corporation until June 1977.

7. In June 1977, The Continental Insurance Company merged with and into a New Hampshire domestic company and the state of incorporation for the merged company named The Continental Insurance Company became New Hampshire.

8. On January 1, 2004, The Continental Insurance Company moved its state of incorporation from New Hampshire to South Carolina.

9. On October 1, 2006, The Continental Insurance Company moved its state of incorporation from South Carolina to Pennsylvania.

10. Before 1995, The Continental Insurance Company had no affiliation with CNAF or Continental Casualty Company.

11. In 1995, CNAF acquired The Continental Corporation and its subsidiaries which included The Continental Insurance Company.

12. Since 1995 as a subsidiary of CNAF, The Continental Insurance Company has been one of several insurance companies authorized to use the "CNA" service mark and trade name in its business activities.

13. Since before 1975, Continental Casualty Company has been one of several insurance companies authorized to use the "CNA" service mark and trade name in its business activities.

FURTHER AFFIANT SAITH NOT.

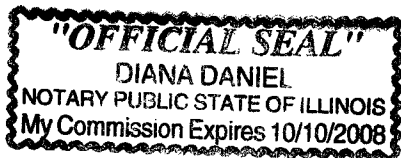
I affirm under the penalties for perjury that the foregoing is true and accurate to the best of my knowledge and belief.

David B. Lehman  
David. B. Lehman

STATE OF ILLINOIS     )  
                                  ) SS:  
COUNTY OF COOK     )

Personally appeared before me, a Notary Public, in and for said County and State, David B. Lehman, who acknowledges the foregoing statements to be true and correct to the best of his knowledge and belief.

Subscribed and sworn to on this 6 day of June 2008.



Diana Daniel  
Notary Public

Printed: DIANA DANIEL

My Commission Expires:

10/10/2008

My County of Residence Is:

McHenry County